

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:08CR550-DJS
)	
QUINCY DAVIS,)	
)	
Defendant.)	

ORDER

Now before the Court is defendant Quincy Davis' motion to transfer to federal custody [Doc. #41]. Defendant states that, on March 19, 2009, this Court sentenced defendant to a ninety-six month term of imprisonment, and on May 1, 2009, defendant was sentenced to a concurrent eight year term of imprisonment in Missouri State Court. Defendant further states that on October 1, 2009, Circuit Judge Ted House issued an order releasing defendant from state custody into federal custody, so that defendant can begin to serve his federal sentence. However, defendant states that the United States Marshals have not acted on that order, and therefore defendant still resides in state custody. Defendant seeks an order directing the Marshals to retrieve him from state custody and deliver him to the Bureau of Prisons ("BOP").

Defendant has not cited any statute or caselaw that would allow the relief he seeks. Further, as only the BOP has the authority to determine when a federal sentence commences, the Court is not persuaded that it has the authority to grant defendant's

motion. United States v. Hayes, 535 F.3d 907, 910 (8th Cir. 2008) ("While nothing prevents the sentencing judge from making recommendations to the BOP, the determination of the commencement date and the designation of the place at which the sentence is to be served remains with the BOP."); see also United States v. Wilson, 503 U.S. 329, 335 (1992) ("After a district court sentences a federal offender, the Attorney General, through the BOP, has the responsibility for administering the sentence."). Accordingly, the Court will deny defendant's motion.

IT IS HEREBY ORDERED that defendant Quincy Davis' motion to transfer to federal custody [Doc. #41] is denied.

Dated this 28th day of January, 2010.

/s/Donald J. Stohr
UNITED STATES DISTRICT JUDGE